

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

IN RE ZETIA (EZETIMIBE) ANTITRUST
LITIGATION

MDL No. 2:18-md-2836

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**MEMORANDUM IN SUPPORT OF MOTION FOR EXTENSION OF TIME TO
FILE EXHIBITS TO THE *DECLARATION OF THOMAS M. SOBOL IN SUPPORT
OF PURCHASERS' OPPOSITIONS TO MERCK AND GLENMARK
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT AND TO EXCLUDE
THE OPINIONS AND TESTIMONY OF DEFENDANTS' EXPERTS***

Plaintiffs¹ respectfully submit this brief in support of their Motion for Extension of Time to File Exhibits to the *Declaration of Thomas M. Sobol in Support of the Purchasers' Opposition to Merck and Glenmark Defendants' Motions for Summary Judgment and to Exclude Testimony and Opinions of Purchasers' Experts*, and state the following in support:

Direct Purchasers, End Payor Purchasers and Retailers undertook to file one joint omnibus brief of 80 pages in opposition to separate summary judgment motions by Glenmark and Merck. While Plaintiffs believe that the omnibus brief will serve the Court by addressing related issues in one brief and reducing repetition, Plaintiffs underestimated the task of combining the teams' efforts with cohesion and clarity. The single omnibus brief and the declaration in support were timely filed September 11, 2020.² The number and file size of the

¹ "Plaintiffs" refers to all plaintiffs in this multi-district litigation.

² Purchasers' Consolidated Opposition to the Merck and Glenmark Defendants' Motions for Summary Judgment ("Omnibus Opposition Memorandum", ECF doc. 1155); Declaration of Thomas M. Sobol in Support of the Purchasers' Opposition to Merck and Glenmark Defendants' Motions for Summary Judgment and to Exclude Testimony and Opinions of Purchasers' Experts ("Declaration", ECF No. 1148).

exhibits required separate filings of the exhibits in subgroups with individual notices. While the majority of the exhibits were filed prior to the deadline of midnight September 11, 2020, a portion were filed afterward.

The delay in filing the exhibits has not prejudiced the Defendants.³ Exhibits PX150 through PX211 are discovery documents that have been in the possession of the Defendants, and each of these exhibits was identified in the Declaration by the specific Bates number used by the producing party in connection with discovery. The remainder, PX212 through PX219, were served within minutes of the deadline and include the Defendants' own annual reports and other publicly available documents identified with particularity in the Declaration. Plaintiffs have met and conferred with Defendants, and Defendants do not object to this request.

Wherefore, Plaintiffs respectfully request an extension to the filing deadline for these exhibits, so that their delayed filing by Plaintiffs will be timely, as follows:

1. That the deadline for filing Declaration exhibits PX162-192 (ECF 1157) be extended to September 12, 2020, at 12:06 a.m.;
2. That the deadline for filing Declaration exhibits PX193-219 (ECF 1158) be extended to September 12, 2020, at 12:13 a.m.; and
3. That the deadline for filing Declaration exhibits PX150-161 be extended to September 14, 2020, the date upon which Plaintiffs filed a notice of supplemental exhibits along with exhibits PX150-161 (ECF No. 1159) and provided copies of each exhibit to Defendants.

Dated: September 17, 2020

/s/ William H. Monroe, Jr.

William H. Monroe, Jr. (VSB No. 27441)

Marc C. Greco (VSB No. 41496)

Kip A. Harbison (VSB No. 38648)

³ *Carrington v. HSBC Bank USA, N.A.*, E.D. Va. No. 2:10CV208, 2011 WL 13234175, at *3 (E.D. Va. Feb. 2, 2011).

Michael A. Glasser (VSB No. 17651)
GLASSER AND GLASSER, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, VA 23510
Telephone: (757) 625-6787
Facsimile: (757) 625-5959
bill@glasserlaw.com
marcg@glasserlaw.com
kip@glasserlaw.com
michael@glasserlaw.com

Local Counsel for Plaintiffs FWK Holdings, LLC, Rochester Drug Cooperative, Inc., and Cesar Castillo, Inc. and the Proposed Direct Purchaser Class

Thomas M. Sobol (*pro hac vice*)
Kristen A. Johnson (*pro hac vice*)
Hannah Schwarzschild (*pro hac vice*)
Bradley J. Vettrano (*pro hac vice*)
HAGENS BERMAN SOBOL SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Telephone: (617) 482-3700
Facsimile: (617) 482-3003
tom@hbsslaw.com
kristenj@hbsslaw.com
hannahs@hbsslaw.com
bradleyv@hbsslaw.com

Lead Counsel for the Proposed Direct Purchaser Class

John D. Radice
RADICE LAW FIRM, P.C.
475 Wall Street
Princeton, NJ 08540
Telephone: (646) 245-8502
Facsimile: (609) 385-0745
jradice@radicelawfirm.com

Steve D. Shadowen (*pro hac vice*)
Matthew C. Weiner (*pro hac vice*)
HILLIARD & SHADOWEN LLP
1135 W. 6th Street, Suite 125
Austin, TX 78703
Telephone: (855) 344-3298
steve@hilliardshadowenlaw.com
matt@hilliardshadowenlaw.com

Joseph M. Vanek (*pro hac vice*)
David P. Germaine (*pro hac vice*)
John P. Bjork (*pro hac vice*)
Paul E. Slater

Joseph H. Meltzer (*pro hac vice*)
Terence S. Ziegler (*pro hac vice*)
KESSLER TOPAZ MELTZER & CHECK LLP
280 King of Prussia Road

Matthew T. Slater
SPERLING & SLATER, P.C.
55 W. Monroe, Suite 3200
Chicago, IL 60603
Telephone: (312) 641-3200
Facsimile: (312)641-6492
jvanek@sperling-law.com
dgermaine@sperling-law.com
jbjork@sperling-law.com
pes@sperling-law.com
mslater@sperling-law.com

Sharon K Robertson (*pro hac vice*)
Donna M. Evans (*pro hac vice*)
COHEN MILSTEIN SELLERS & TOLL PLLC
88 Pine Street, 14th Floor
New York, NY 10005
Tel: (212) 838-7797
Fax: (212) 838-7745
srobertson@cohenmilstein.com
devans@cohenmilstein.com

Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056
jmeltzer@ktmc.com
tziegler@ktmc.com

Michael L. Roberts
Karen Sharp Halbert (*pro hac vice*)
Debra G. Josephson (*pro hac vice*)
Stephanie Smith (*pro hac vice*)
William R. Olson (*pro hac vice*)
Sarah E. DeLoach (*pro hac vice*)
ROBERTS LAW FIRM, P.A.
20 Rahling Circle
Little Rock, AR 72223
Telephone: (501) 821-5575
Facsimile: (501) 821-4474
mikeroberts@robertslawfirm.us
karenhalbert@robertslawfirm.us
debrajosephson@robertslawfirm.us
stephaniesmith@robertslawfirm.us
williamolson@robertslawfirm.us
sarahdeloach@robertslawfirm.us

Counsel for Plaintiff FWK Holdings, LLC and the Proposed Direct Purchaser Class

Linda P. Nussbaum (*pro hac vice*)
NUSSBAUM LAW GROUP, P.C.
1211 Avenue of the Americas, 40th Floor
New York, NY 10036-8718
Telephone: (917) 438-9189
lnussbaum@nussbaumpc.com

Jayne A. Goldstein (*pro hac vice*)
SHEPHERD, FINKELMAN, MILLER & SHAH, LLP
1625 North Commerce Parkway, Suite 320
Fort Lauderdale, FL 33326
Telephone: (954) 515-0123
Facsimile: (866) 300-7367
jgoldstein@sfmslaw.com

Counsel for Plaintiff Cesar Castillo, Inc. and the Proposed Direct Purchaser Class

David F. Sorensen (*pro hac vice*)
Ellen T. Noteware (*pro hac vice*)
Nicholas Urban (*pro hac vice*)
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103
Telephone: (215) 875-3000
Facsimile: (215) 875-4604
dsorensen@bm.net
enoteware@bm.net
nurban@bm.net

Peter R. Kohn (*pro hac vice*)
Joseph T. Lukens (*pro hac vice*)
FARUQI & FARUQI, LLP
One Penn Center, Suite 1550
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103
Telephone: (215) 277-5770
Facsimile: (215) 277-5771
pkohn@faruqilaw.com
jlukens@faruqilaw.com

Barry Taus (*pro hac vice*)
Archana Tamoshunas (*pro hac vice*)
Kevin Landau (*pro hac vice*)
TAUS, CEBULASH & LANDAU, LLP
80 Maiden Lane, Suite 1204
New York, NY 10038
Telephone: (646) 873-7654
btaus@tcclaw.com
atamoshunass@tcclaw.com
klandau@tcclaw.com

Bradley J. Demuth (*pro hac vice*)
FARUQI & FARUQI, LLP
685 Third Avenue, 26th Floor
New York, NY 10017
Telephone: (212) 983-9330
Facsimile: (212) 983-9331
bdemuth@faruqilaw.com

Counsel for Rochester Drug Cooperative, Inc. and the Proposed Direct Purchaser Class

/s/ James A. Cales, III
James A. Cales III (VSB No. 41317)
Alan Brody Rashkind (VSB No. 12658)
FURNISS, DAVID, RASHKIND & SAUNDERS PC
6160 Kempsville Circle, Suite 341B
Norfolk, VA 23502
Telephone: (757) 461-7100
arashkind@furnissdavis.com
jcales@furnissdavis.com

Liaison Counsel for the Proposed End-Payor Class

Marvin A. Miller (*pro hac vice*)
Lori A. Fanning (*pro hac vice*)
Matthew Van Tine (*pro hac vice*)
MILLER LAW LLC
115 S. LaSalle Street, Suite 2910
Chicago, IL 60603
Telephone: (312) 332-3400
mmiller@millerlawllc.com
lfanning@millerlawllc.com

Michael M. Buchman (*pro hac vice*)
Michelle C. Clerkin (*pro hac vice*)
MOTLEY RICE LLC
777 Third Avenue, 27th Floor
New York, NY 10017
Telephone: (212) 577-0040
mbuchman@motleyrice.com
mcclerkin@motleyrice.com

Co-Lead Counsel for the Proposed End-Payor Class

/s/ Adam M. Carroll
Adam M. Carroll (VSB No. 68017)
WOLCOTT RIVERS GATES P.C.
Convergence Center IV
200 Bendix Road, Suite 300
Virginia Beach, VA 23452
Telephone: (757) 554-0249

Facsimile: (757) 554-0248
acarroll@wolriv.com

Liaison Counsel for the Retailer Plaintiffs

Scott E. Perwin (*pro hac vice*)
Lauren C. Ravkind (*pro hac vice*)
Anna T. Neill (*pro hac vice*)
KENNY NACHWALTER P.A.
Four Seasons Tower
1441 Brickell Avenue, Suite 1100
Miami, FL 33131
Telephone: (305) 373-1000
Facsimile: (305) 372-1861
sperwin@knpa.com
lravkind@knpa.com
aneill@knpa.com

*Counsel for the Walgreen Plaintiffs in No.
2:18-cv-266*

Barry L. Refsin (*pro hac vice*)
Monica L. Kiley (*pro hac vice*)
Eric L. Bloom (*pro hac vice*)
HANGLEY ARONCHICK SEGAL PUDLIN &
SCHILLER
One Logan Square, 27th Floor
Philadelphia, PA 19103
Telephone: (215) 568-6200
brefsin@hangle.com
mkiley@hangle.com
ebloom@hangle.com

*Counsel for CVS and Rite Aid in Nos. 2:18-cv-
423 & 2:18-cv-439*

CERTIFICATE OF SERVICE

I, William H. Monroe, Jr., certify that, on this date, the foregoing document was filed electronically via the Court's CM/ECF system, which will send notice of the filing to all counsel of record, and parties may access the filing through the Court's system.

Dated: September 17, 2020

/s/ William H. Monroe, Jr.
William H. Monroe, Jr. (VSB No. 27441)